



## City of Buena Vista Planning Commission

### Minutes of July 10<sup>th</sup> 2017

CITY OF BUENA  
VISTA  
Office of Planning and  
Zoning  
2039 Sycamore Avenue  
Buena Vista VA 24416

Members of the Buena Vista Planning Commission met in Council Chambers, 2039 Sycamore Avenue, at 7:00 p.m. on July 10th 2017. The meeting was called to order by Chairman Hawes. Mr. Roberts called roll. A quorum was established.

#### **Members Present:**

Dennis Hawes, Chairman  
Michael Ohleger, Vice-Chairman  
Bill Braddy  
Tyson Cooper  
Lucy Ferrebee  
Wayne Flint  
Melvin Henson, City Council Representative

#### **Members Absent:**

Simone McKelvey  
Jay Scudder, Ex Officio member

#### **Staff Present:**

Tom Roberts, City Planner

#### **Review and Adoption of Minutes**

Mr. Hawes called a vote to approve the minutes of the April 11<sup>th</sup> Meeting. Mr. Ohleger moved and Ms. Ferrebee seconded. All voted to approve.

#### **Public Comment**

Mr. Hawes stated that he had spoken earlier with Mr. Brent Styler, who was present in the audience, and asked if Mr. Styler wished to address the Commission with any of his questions. Mr. Styler stated that he did not at this time.

#### **Report of Secretary**

Mr. Hawes began with the first item in the Report of the Secretary, the expiration of Wayne Flint's term on the Planning Commission. The Commission and Mr. Roberts all expressed how long Mr. Flint had served and that they were appreciative of all his service to the Commission and to other City organizations.

Mr. Roberts next asked Mr. Hawes about Melvin Henson's position on the Planning Commission. Mr. Roberts mistakenly thought that Mr. Henson was not running for re-election to City Council in November, but was corrected that he is running. However, Mr. Roberts asked what would happen if Mr. Henson did not win re-election. Mr. Hawes explained that Council would appoint a new representative on the Commission. Mr. Ohleger noted that in the past, it was often the newest member of Council who was appointed to the Planning Commission, but that Mr. Henson had been an asset on the Commission particularly because of his former role as Director of Public Works.

#### Update on Transportation-Related Grants

Mr. Roberts updated the Commission that the City was awarded the grant for the Chessie trail connection under the Route 60 bridge, and it was awarded the grant for streetscape improvements on 20<sup>th</sup>, 21<sup>st</sup>, and 22<sup>nd</sup> Streets. Mr. Roberts also noted that the Magnolia Avenue streetscape project (not TAP funded) was out to bid and construction should take place in the fall. Finally, the Enderly Heights Safe Routes to School project is authorized to announce for bids, and that construction will be in the fall.

The Commission was not familiar with the Enderly Heights SRTS project, and asked Mr. Roberts about it. Mr. Roberts reviewed the project history beginning in 2013. There was some discussion about the purpose of the project, which is to improve infrastructure to make walking to school safer.

Mr. Henson pointed out that Parry McClure High School had been identified some years back as a possible eligible site for Safe Routes to School pedestrian improvements because it has 8<sup>th</sup> grade at that location. Mr. Roberts responded he would definitely look at this as a project site, and that the applications for this funding program is opening soon and will be due November 1<sup>st</sup>. The Commission then discussed the alternate roads design and built around the high school.

Mr. Hawes pointed out again that in his opinion, spending the money on the Chessie Trail connection and on the streetscape project is not a wise use of resources, and that the funds could be spent on other infrastructure projects.

#### Community Garden

Mr. Roberts stated that he is taking a more active role in managing the Community Garden. Mr. Ohleger pointed out that not much maintenance had been done this year.

#### Interior Stream Maintenance Guidelines

Mr. Roberts explained that creeks have been maintained in different ways over the years and that the City has performed less maintenance in recent years, and that he has been researching the ownership and obligations of the City in regard to maintenance of streams. He has also been in contact with the major federal agencies that have done flood hazard mitigation projects in the City. The end goal will be communicating more clearly to City staff, City Council, and residents about the obligations and best practices for maintenance.

Mr. Braddy asked about the canals in the City, and Mr. Roberts explained that the canal is part of the levee. There was also some confusion of terms, because "stream" suggests a more natural state, although some of the City's streams have been channelized in different ways.

#### Upcoming rezoning

Mr. Roberts alerted the Commission to an upcoming rezoning application of 2806 Beech Avenue, the white house across the street from Hardees and Family Dollar at the corner of Beech and 28<sup>th</sup> Street. The proposal will be to rezone from R3 residential to MB Mixed Business. There was discussion about what the applicant was proposing to build at the site. Mr. Braddy noted that, speaking from “another hat” as an SVU employee, that the property was an important and strategic property for the City and for SVU. Mr. Roberts stated that the property is located in the Seminary Hill Historic District [*editor’s note: this statement is incorrect; the property is not in the SHHD.*]

## **Report of Standing Committees**

None.

## **Report of Special Committees**

### Comprehensive Plan Update Committee

Mr. Roberts recounted that the meeting the prior night focused on housing, and that one of the big takeaways was the need for better data on housing. He is looking into data sources other than the Census, which is problematic because the annual ACS data are estimates not reliable counts, and he is also looking into a housing study.

Mr. Ohleger pointed out the issue of short-term rental regulation, which was a topic of conversation at the Committee meeting. Mr. Ohleger continued that Mr. Roberts had pointed out the lost tax revenue on AirBnBs. Mr. Ohleger provided to Mr. Roberts the City of Lexington’s draft STR regulations from a recent Lexington Planning Commission meeting and expressed his desire for Buena Vista to adopt some type of amendments to better regulate STR. Brian Brown, from the audience, noted that the state organization of Commissioners of Revenue was considering the STR issue.

Mr. Hawes stated that the City should be careful to put out the welcome mat to these businesses, otherwise they would locate elsewhere. Mr. Ohleger pointed out that some years ago some friends had opened a bed and breakfast in Buena Vista and had to jump through many hoops to get City Council approval for their establishment. Mr. Flint added on a related note that he had observed more cars parked in front of single-family homes, suggesting that there were basements or attics being rented out.

## **New Business**

The discussion turned to the issues raised by the two zoning amendment proposals presented on maximum occupancy of dwelling units and conditional permitting of two- or more family dwellings. Mr. Hawes began by pointing out that there were existing ordinances governing use of houses and division into multiple units, but he did not think they were being fully enforced, and that before making changes the existing regulations should be enforced. Mr. Hawes also stated, in reference to §711 (requiring a conditional use permit for rental of single-family homes to 5 or more unrelated persons), that since it was passed in 2001 no one had ever presented an

application under that section—even though Mr. Hawes knew that there were units that should have received that CUP.

Mr. Braddy interjected that he appreciated the pamphlet planning staff had produced to explain residential rental regulations, saying that it was helpful for students and landlords of students at SVU. Mr. Braddy also stated that he fully supports the Rental Inspection Program and thinks that it is a good way to ensure the safety of residents.

Mr. Flint mentioned a case where the Planning Commission had given an exception to a home builder for an in-law suite for a family member, and now he believes that it is being rented out as a separate unit. The Commission then discussed what the actual regulations are regarding how many units can be in a structure and how many unrelated persons can be in each unit. Mr. Hawes pointed out that the 2001 §711 was intended to avoid some of the problems that Lexington had with Washington & Lee student rentals, but that Buena Vista did not seem to have those issues. Mr. Braddy and Mr. Cooper countered that traffic and parking are an issue in some locations and will continue to be. Mr. Cooper highlighted the example of a house across the street from SVU's Walnut Avenue apartments, where the house has two units and often there are legally four or five vehicles in front of the house clogging up the street.

Brian Brown in the audience noted that as long as minimum square footages were met, property owners could divide their houses into multiple units by-right, up to two units in R2 and up to four units in R3. Mr. Hawes noted that many of these conversions had taken place long before SVU or the current regulations.

Conversation turned to how basements are sometimes used for separate units, and that there are egress issues with basements used as apartments

Several Commissioners brought up specific properties where there are or may be multiple dwelling units. One property mentioned was the house at the corner of Chestnut and 21<sup>st</sup> Street. Several members were aware of this property and its ongoing renovations, and Mr. Roberts stated that he had met with the owners and reviewed the plans and it would have three units in it when complete. Mr. Hawes noted that it had had two units for many years and should be grandfathered, but could not have more because it was on a single lot. Additional units require larger lot sizes. Mr. Braddy asked about the building permit process, and whether staff had “caught” this project at that stage. Brian Brown interjected that because the development of multiple units is by-right in R3 (where this house is), they did not need a zoning permit, and further that many times the interior work to convert to a second unit does not require even a building permit. Mr. Brown stated this is a problem because staff do not know that the units are being created or if they meet regulations.

Mr. Roberts added that if additional units were a conditional use, not a by-right use, that the Planning Commission could be having this conversation about units and occupancy in a Commission meeting.

Mr. Braddy and Mr. Ohleger, returning to the house at Chestnut & 21<sup>st</sup>, asked to clarify what was meant by three separate units. Mr. Roberts responded that the units have appropriate fire separation and are built to standard.

Mr. Roberts then reiterated that the larger issue was the quiet creation of new units without the requisite structural improvements. Part of the issue is that the structural requirements are not

clear either, and so Mr. Roberts noted that staff was also recommending updates to the definition of two-family dwellings.

Mr. Hawes turned the conversation to a specific statement in the staff report that the only residential use permitted by-right in the Mixed Use district on the Magnolia corridor is owner-occupied single-family housing. Mr. Hawes stated that he believed this was incorrect, but in fact had confused the Mixed Use district with the Mixed Business. Mr. Roberts and Mr. Brown went on to clarify the multiple restrictions on residential uses in the MU district, including the recently-enacted requirement that in mixed-use buildings residential may occupy the upper floors or the rear of the first floor if the resident was the property or business owner, and that multifamily is a conditional use in MU. Mr. Roberts then elaborated on the provision in MU that mimics §711 but requires a CUP for any single-family residential unit regardless of occupancy.

Mr. Hawes interjected a question on the status of the website, and Mr. Brown responded that it is under construction but the best place for the City code was the Municode third-party website. Mr. Hawes then returned to the issue of enforcement. Mr. Cooper then added that SVU has discussed required rental inspection certificates for student rentals. Mr. Roberts returned to the question of conditional uses for more than one unit, asking what the benefit of allowing two-, three-, and four-family dwellings by right is. Then he stated that right now, there is no reason for many of these conversions to even come across his desk or into his office, but if they were conditional, then it would be much clearer that they needed to be approved and that the Planning Commission would be part of the process for each property.

Mr. Hawes asked about permits that had been issued for new units. There was discussion about the difference between new construction of units—of which there has been very little—and conversion of existing buildings into additional units. Mr. Brown said that he could provide Mr. Hawes with a list of recent building permits that resulted in new units, but that many of them do not even require permits. Mr. Brown estimated that there were about five new converted units per year.

Mr. Cooper again brought up that SVU is strongly encouraging students to ask landlords to see their rental inspection certificates to ensure the housing meets basic standards. Mr. Brown then stated that there is inadequate staff to do all the rental inspection and code enforcement work. Fred Fix, the building inspector, is responsible for all building permits and inspections, code enforcement, and rental inspection.

Mr. Braddy emphasized that it is in everyone's best interest to work harder on and improve the regulation and enhancement of housing, and that it improves the community. He also noted that a major part of this is education.

Mr. Roberts then turned the conversation to §702 Additional Buildings on a Single Lot, explaining that it was a strange old piece of code that contradicts almost everything else in the land use regulations. There was some discussion of the possible history of provision and what that would look like, such as a dwelling over a detached garage. Mr. Ohleger suggested that it be excised.

Mr. Roberts asked if the Commission wanted to discuss the maximum occupancy regulation proposal. Mr. Hawes said that his feelings were similar to the conditional use proposal, that staff should enforce the existing regulations, and that the existing regulations requiring a CUP for more than five persons had not been used so changing them would not benefit. Mr. Roberts

clarified the difference in the two conditional uses, one pertaining to dwelling units and the other pertaining to occupancy of units. He then then noted that changing the maximum occupancy would affect existing units.

**Old Business**

None.

**Additional Items**

Mr. Hawes announced that he had sold the large house at 547 East 25<sup>th</sup> Street, which for many years has had several apartments in it, and which is in very poor condition. The buyer is planning to renovate it as a single-family home. The Commission and staff expressed their pleasure at where this property is headed.

**Adjournment**

Chairman Hawes adjourned the meeting at 8:30 PM.

**Approval**

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Chairman \_\_\_\_\_ Date \_\_\_\_\_